

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-11521
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT October 26, 2007 THOMAS K. KAHN CLERK

D. C. Docket No. 06-00012-CV-6

TOMMY EDWARD GIBSON,

Plaintiff-Appellant,

versus

WARDEN HUGH SMITH,
DEPUTY WARDEN STEVE ROBERTS,
OFFICER JOHN DOE 1,
OFFICER JOHN DOE 2,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Georgia

(October 26, 2007)

Before DUBINA, CARNES and PRYOR, Circuit Judges.

PER CURIAM:

Tommy Edward Gibson, a Georgia inmate, appeals the summary judgment in favor of Hugh Smith, warden of the Georgia state prison where Gibson is incarcerated, and Steve Roberts, deputy warden of the prison, and against Gibson's complaint that deliberate indifference to the inadequate staffing at the prison caused injury to Gibson in violation of his Eighth Amendment rights. See 42 U.S.C § 1983. We affirm.

Gibson complained that on the morning of January 16, 2005, he was assaulted by two inmates while sleeping in his cell. According to Gibson, the control officer on duty at the gate wrongfully granted the two inmates access to Gibson's dormitory, and the officer assigned to his dormitory was in a back hallway and not at his post in the dormitory at the time of the attack. Gibson contends that the prison was inadequately staffed and the deliberate indifference of Smith and Roberts to the understaffing caused Gibson's injury. Following a motion by Smith and Roberts, the district court granted summary judgment against Gibson's complaint.

We review a grant of summary judgment de novo, and we resolve all issues of material fact in favor of the nonmoving party. Cuvillier v. Rockdale County, 390 F.3d 1336, 1338 (11th Cir. 2004).

The basis of Gibson's complaint is that the prison was understaffed. Gibson

contends that “minimum security staffing requires a security officer in the dorms at all time except at night when the inmates are locked in their cells.” Even if this standard were correct, Gibson failed to present sufficient evidence that the prison was understaffed at the time of his attack. According to Gibson’s own allegations, an officer was assigned to his dorm, but was absent from his post. The expert report and deposition testimony of Eugene Miller, submitted by Gibson, describe the staffing levels of the prison in 2004 and are insufficient to establish understaffing at the time of Gibson’s injury.

The summary judgment in favor of Smith and Roberts is

AFFIRMED.